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Letter dated 3 November 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter from H.E. Osman Saleh Mohammed, Minister for Foreign Affairs of the State of Eritrea, in connection to the sanction resolution tabled in the Security Council (see annex).

I would appreciate if the present letter and its annex could be brought to the attention of the members of the Security Council and circulated as a document of the Security Council.

(*Signed*) Araya **Desta**
Ambassador
Permanent Representative

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Annex to the letter dated 3 November 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

Please allow me to draw your attention to the latest draft resolution which purports to impose "additional sanctions" on Eritrea.

Although certain clauses and precise wording in the operative paragraph appears to be under continued negotiations, the gist of new measures under consideration include, among other things, (i) discretionary inspection of Eritrean cargo at seaports, airports and on the high seas and through transit by all States and "in particular States of the region to ensure strict implementation of the arms embargo"; (ii) prohibition of new investment "in the extractive industries and mining sectors in Eritrea"; (iii) curtailment of the 2 per cent recovery tax that Eritrea collects from its citizens in the diaspora through subtle due diligence requirements and indictment of Eritrean citizens; (iv) encumbrance of foreign trade transactions of Eritrea through prohibitive banking oversights and due diligence requirements; and (v) the possible inclusion of selected Government officials for travel ban and other measures.

The objective of these measures are too transparent to merit extensive discourse. To begin with, the provision that would virtually give a green light to Ethiopia and other powers that harbour belligerent intentions against Eritrea to inspect at will any cargo destined to the country is fraught with dangerous security implications. Indeed, this will only disrupt maritime traffic, curtail Eritrea's right to innocent passage, and otherwise sanction and embolden encroachment on its sovereignty by its adversaries. Surely, this provocative provision cannot promote regional peace and stability.

The prohibition of new investment "in the extractive industries and mining sectors in Eritrea" is simply meant to cripple future economic growth in the country. It has no direct linkages with the issues at hand, apart from broad, speculative conjecture, inserted in the report of the Monitoring Group, maintaining that "revenues from mining may potentially be diverted to destabilize activities". As explained in greater detail in Eritrea's reply to the report of the Monitoring Group, Eritrea's regional policy is firmly anchored in the promotion of a "safe and cooperative neighborhood". It has neither the desire nor the interest in the destabilization of the region. Furthermore, the gestation period of investments in the extractive industry is not less than seven years on average. This measure is thus really meant to curb Eritrea's future economic growth.

Eritrea has explained in detail the rationale, legality and scope of the 2 per cent recovery tax in its reply to the report of the Monitoring Group. As a matter of fact, the 2 per cent tax is not significant in government fiscal and budgetary terms. Its importance lies in maintaining the bondage of the diaspora with the home country and the consolidation of social responsibility, cultivated during the decades of struggle for national liberation, in the collective efforts at nation building. Hence, apart from its tenuous legality, any punitive measure that targets the recovery tax has political ramifications and is really aimed at undermining the cohesion and solidarity of the diaspora with their home country. This is precisely the sinister agenda that Eritrea's adversaries have been pursuing for years.

In the same vein, the plethora of banking impediments and other commercial encumbrances proposed in the draft resolution do not emanate from credible findings of Eritrea's misdemeanour or "punishable offenses". All these measures are being pushed by Eritrea's adversaries in order to undermine its developmental drive and to slow down and paralyse burgeoning foreign direct investment in the country by rendering the business environment as difficult and dysfunctional as possible. The travel ban on selected Government officials is primarily designed to reinforce the image of a "pariah State" that Eritrea's enemies have been peddling; again, for ulterior political motives. This is amply illustrated by the outrageous list of senior Eritrean Government officials that Ethiopia published last year.

There are other malignant procedural and substantive ramifications in the efforts under way that warrant profound scrutiny. The preamble of the draft resolution is replete with gross accusations of Eritrea's "destabilizing regional role" and "sponsorship of terrorism" that are not even borne out in the report of the Monitoring Group on Somali and Eritrea. Furthermore, Eritrea's comprehensive response has been totally ignored without serious efforts at validating the accusations levelled against it so as to ensure objectivity and neutrality.

The draft resolution is nominally sponsored by Gabon and Nigeria in a deliberate attempt to give it an African flavour. This is procedurally inappropriate and substantively flawed. The African Union has not passed a resolution calling for additional sanctions against Eritrea. The two countries are not parties to the matters under dispute. Indeed, in reality, the authors of the current resolution are the same architects that were behind Security Council resolution 1907 (2009).

Eritrea has all along maintained that resolution 1907 (2009), which was adopted by the Security Council in December 2009, is not based on fact and law. In this vein, Eritrea has relentlessly tried in the past two years to put its case to all United Nations Member States with the hope of seeking redress and annulment of this unwarranted resolution. Many facts, including WikiLeaks documents, now reveal that vindictive and unjustified punishment of Eritrea under the umbrella of the Security Council was countenanced and actively discussed by Eritrea's detractors as early as 2006 long before the crisis in Somalia assumed centre stage in this whole affair.

As we have explained in the past, resolution 1907 (2009) imposes on Eritrea an arms embargo while Eritrea remains a victim of Ethiopian aggression, with the latter occupying sovereign Eritrean territories in flagrant breach of international law; the African Union Charter on the sanctity of colonial boundaries; and relevant United Nations articles on the resolution of territorial disputes through arbitral mechanisms. But Ethiopia's violations of international law, which have jeopardized and continue to jeopardize regional peace and security, continue to be tolerated by the same Security Council that has seen fit to punish Eritrea unfairly. As we have emphasized on various occasions, the imposition of an arms embargo on Eritrea cannot be acceptable in principle as it undermines Article 51 of the Charter of the United Nations on the right of any Member State to self-defence in situations of occupation and aggression, as is indeed the case with Eritrea.

In view of all these realities and in the interests of justice and peace, I kindly ask for your efforts in seeking a profound and fair assessment of the whole affair with a view to ensuring that:

(1) The United Nations Security Council acts with neutrality, impartiality and fairness as it discharges its functions in the maintenance of international and regional peace and security;

(2) Resolution 1907 (2009) and all its sequels are scrapped on the basis of just and fair appraisal of the realities on the ground.

(*Signed*) Osman **Saleh**
Foreign Minister of the State of Eritrea

1 November 2011
Asmara